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In re Application of
BRUNO J.P. CHAMPAGNE et al.
Application No.: 10/525,580
PCT No.: PCT/IB03/03717
Int. Filing Date: 19 August 2003
Priority Date: 18 August 2002
Attorney's Docket No.: BE 020023
For: TRACK JUMP UNIT

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: DECISION ON
:
: PETITION
:
: UNDER 37 CFR 1.47(a)
:
:

This is in response to the petition under 37 CFR 1.47(a), filed 31 July 2006, to permit the applicants to file the above-captioned application on behalf of the non-signing inventors, Chris C.S. Convents and Michel P.J. Vanspauwen. The petition under 37 CFR 1.47(a) is DISMISSED.

BACKGROUND

On 19 August 2003, applicants filed international application PCT/IB03/03717, which claimed priority of earlier European patent application EP 02292122.5, filed 18 August 2002.

On 23 February 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application and the requisite priority document. An oath or declaration was not submitted.

On 07 February 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/905) indicating that among other required documents, an oath or declaration and a surcharge for filing the oath and declaration later than 30 months from the priority date, must be filed. The notification set a two-month time limit in which to respond.

On 31 July 2006 applicant filed the present petition accompanied by a petition fee, a petition and fee for a four-month extension of time, an oath executed by inventors Bruno J.P. Champagne, Bert M.A. Van Houte and Jozef F.D. Verbeek, copies of letters mailed to inventors Chris C.S. Convents and Michel P.J. Vanspauwen, a statement showing the last known address of inventors Chris C.S. Convents and Michel P.J. Vanspauwen and, a declaration by Mr. Edward Goodman.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each applicant on his or her own behalf and on behalf of the non-signing joint inventor. A review of the papers indicates that applicants have satisfied items (3) and (4).

As to item (1), applicants have submitted an incorrect fee of \$130.00 under 37 CFR 1.17(h). The correct fee for a petition filed under 37 CFR 1.47(a) is \$200.00 under 37 CFR 1.17(g). Based on applicant's authorization filed 23 February 2005 under 37 CFR 1.136(a)(3), an additional fee of \$70.00 will be charged to Deposit Account No. 14-1270.

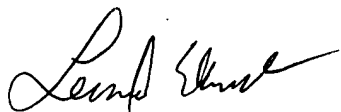
As to item (2), the evidence submitted to show that inventors Chris C.S. Convents and Michel P.J. Vanspauwen have refused to sign is insufficient. The declaration by Mr. Goodman indicates that Ms. Claudine Laubin mailed letters to inventors Chris C.S. Convents and Michel P.J. Vanspauwen without receiving any answer. The copies of the letters mailed by Ms. Claudine Laubin show that letters were mailed on 05 November 2003, 26 January 2004, 16 March 2004 and 03 June 2004. The letters identify the priority document, EP 02292122.5 and all the inventors listed in the international application. Furthermore, the letters show that the mailing included documents to "regularize the PCT/US patent" and "a copy of the PCT patent."

However, the declaration by Mr. Goodman is not a first-hand statement from the person who tried to contact non-signing inventors Chris C.S. Convents and Michel P.J. Vanspauwen. Ms. Claudine Laubin has not indicated that she has any firsthand knowledge of the facts. Instead the declaration of Mr. Goodman has offered an explanation of the facts and copies of letters purportedly sent to Chris C.S. Convents and Michel P.J. Vanspauwen. In the present instance, a statement from Ms. Claudine Laubin should be presented.

CONCLUSION

Applicant's petition to permit the applicants to file the above-captioned application on behalf of the non-signing inventors, Chris C.S. Convents and Michel P.J. Vanspauwen, is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.



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